

FEDERAL HIGHWAY ADMINISTRATION

FINDING OF NO SIGNIFICANT IMPACT

FOR

NH 57-3(31)83

Lewistown to Grass Range
(CN 4067)

in

FERGUS COUNTY, MONTANA

THE FEDERAL HIGHWAY ADMINISTRATION HAS DETERMINED THAT MDT'S "PREFERRED" ALTERNATIVE FOR THIS PROPOSED PROJECT WILL HAVE NO SIGNIFICANT IMPACT ON THE HUMAN ENVIRONMENT. THIS FINDING OF NO SIGNIFICANT IMPACT IS BASED ON THE ATTACHED ENVIRONMENTAL ASSESSMENT WHICH HAS BEEN INDEPENDENTLY EVALUATED BY THE FEDERAL HIGHWAY ADMINISTRATION AND DETERMINED TO ADEQUATELY AND ACCURATELY DISCUSS THE NEED, ENVIRONMENTAL ISSUES, AND IMPACTS OF THE PROPOSED PROJECT AND APPROPRIATE MITIGATION MEASURES. IT PROVIDES SUFFICIENT EVIDENCE AND ANALYSIS FOR DETERMINING THAT AN ENVIRONMENTAL IMPACT STATEMENT IS NOT REQUIRED. THE FEDERAL HIGHWAY ADMINISTRATION TAKES FULL RESPONSIBILITY FOR THE ACCURACY, SCOPE, AND CONTENT OF THE ATTACHED ENVIRONMENTAL ASSESSMENT.


Dale Paulson

Federal Highway Administration

, Date:

7-8-2004

Exhibit A:
Responses to Comments

A Public Hearing to obtain comments on the Environmental Assessment was held on two evenings in Lewistown and Grass Range, in November 2003. Approximately 19 people attended the Hearing at the Yogo Inn in Lewistown, and approximately nine people attended the following evening at the school in Grass Range. An additional nine written comments were received during the public review period. Those comments (reproduced on the left) and the FHWA/MDT responses (on the right) are included in the following pages.

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In Reply To:

2800
M92415

United States Department of the Interior

BUREAU OF LAND MANAGEMENT
Lewistown Field Office
Airport Road, P.O. Box 1160
Lewistown, Montana 59457-1160
<http://www.int.blm.gov/lfo>



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NOV 13 2003

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November 12, 2003

Jean A. Riley
Environmental Services
Montana Dept. of Transportation
P.O. Box 201001
Helena, Montana 59620

**MASTER FILE
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Dear Ms. Riley,

The Lewistown Field Office, Bureau of Land Management has reviewed the Environmental Assessment for the Lewistown to Grass Range Corridor Study. We would like to provide the following comments:

- 1 The BLM has not identified any problems with your preferred alternative, and would like to compliment you on a job well done. The BLM has one tract of land (T. 15N. R. 21E., Sections 13 and 14) which appears to be affected by the proposal, and for which the MTDOT does not have a right-of-way (ROW). The MTDOT will need to apply for a ROW from this office.
- 2 Please be aware that the BLM will be constructing a new building along Highway 87 on the eastern approach to Lewistown across from Pamida. Please keep this in mind as you work on final engineering details concerning access to businesses in this segment.
- 3 Thank you for the opportunity to review and comment on this EA. Please contact me at 406/538-1918 or Loretta Park at 406/538-1910 regarding your application for the ROW, or if you have any questions.

Sincerely,

Chuck Otto

Chuck Otto
Assistant Field Manager

- 1 – Once final plans have been completed, MDT will contact the BLM to request necessary right-of-way easements.
- 2 – Access to the new BLM facilities will be negotiated during final design. It does not appear that this new access will present any concern.
- 3 – Thank you for your participation in this project.

Lewistown to Grass Range

Environmental Corridor Study

Public Hearing(s):

- ☐ Lewistown: Monday - November 24, 2003
- ☐ Grass Range: Tuesday - November 25, 2003

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We Invite Your Comments:

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4 This has been a most interesting and one that has been sorely needed.

Everyone attending these meetings has had the opportunity to express their opinion in a neutral atmosphere. The tone of the meetings has been very cordial. When explanations were asked for, they were given in a very thoughtful and cordial manner.

Mr. Barnett has conducted these meetings in a very professional manner. Though the discussions have sometimes become quite serious, they have always been very up-beat and have not strayed from the subject at hand.

This is a process which needs to be continued if the people of Montana are to get the most from their highway dollars.

To receive further project information, please provide your name and address:

Name: George D. Sengel, Mayor
Town of Grass Range
Address: 308 Chesters Ave
Grass Range, MT 59032

Please leave your comments with either MDT or HKM staff at the meeting, or mail to:

Jean Riley, P.E.
MDT - Environmental
PO Box 201001
Helena, MT 59620-1001

Please submit comments by or before **December 5, 2003**

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4 - Thank you for your interest in the project and active participation in the project development process.

Lewistown to Grass Range

Environmental Corridor Study

Public Hearing(s):

- ☐ Lewistown: Monday - November 24, 2003
- ☐ Grass Range: Tuesday - November 25, 2003

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We Invite Your Comments:

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5

We have the state land lease in the vicinity of mile marker 94 - I sure hope we have some input on the design in this area for location of stock underpass and fencing leading up to both ends of said underpass. Also our cattle guard on approach on East end of Divide Rd 1/2 mi East of Mile M. 94 - Some of these questions were ans. @ Mtg but not in enough detail for me.

Thank you

Tony

To receive further project information, please provide your name and address:

Name: Anthony R. Tuss

Address: old address H.C. 85 6.7H Edge Rt

New address 3320 Divide Rd

Lewistown MT 59457

Please leave your comments with either MDT or HKM staff at the meeting, or mail to:

Jean Riley, P.E.
MDT - Environmental
PO Box 201001
Helena, MT 59620-1001

Please submit comments by or before **December 5, 2003**

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- 5 - Any existing stock passes will be perpetuated, and requests for new stock passes can be negotiated during final design. MDT will also replace any fencing affected by the project. If the cattle guard on Divide Road is affected, it will also be replaced.

We understand your desire to have more detail on these issues, but the design is not to a completed stage that will permit any more specific information at this point. As the project progresses toward final design, MDT will be contacting you to discuss all of these items in more detail, and attempt to minimize impacts to your property and ranching operations.

Lewistown to Grass Range

Environmental Corridor Study

Public Hearing(s):

- ☐ Lewistown: Monday – November 24, 2003
- ☐ Grass Range: Tuesday – November 25, 2003

We Invite Your Comments:

⑥ Where Hwy. 87 meets the Divide Rd. on top of the divide. Sight distance for vehicles turning west onto Hwy. 87 has a very short sight distance looking east.

6 – The new design concept has addressed this sight distance issue in two ways:

The horizontal alignment has been increased to provide a wider more open curve, and the vertical alignment has been reduced to flatten out the alignment.

The current intersection is somewhat of a “Y” configuration from Divide Road. It is desirable to close the westernmost approach and use the more perpendicular approach to the east to provide a more defined intersection and better visibility.

To receive further project information, please provide your name and address:

Name: Jim / Sue Zeltick

Address: 1931 Divide Rd.
Lewistown, MT 59457

Please leave your comments with either MDT or HKM staff at the meeting, or mail to :

Jean Riley, P.E.
MDT – Environmental
PO Box 201001
Helena, MT 59620-1001

Please submit comments by or before **December 5, 2003**

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Lewistown to Grass Range

Environmental Corridor Study

Public Hearing(s):

- ☐ Lewistown: Monday – November 24, 2003
- ☐ Grass Range: Tuesday – November 25, 2003

We Invite Your Comments:

⑦ Very good idea for straightening curves & widening for better driving & seeing wild animals. And also for working with the public & land owners for comments.

7 – Thank you for your participation.

To receive further project information, please provide your name and address:

Name: Lillian Swanson

Address: 506-5th Ave. So
Lewistown
mt. 59457

Please leave your comments with either MDT or HKM staff at the meeting, or mail to :

Jean Riley, P.E.
MDT – Environmental
PO Box 201001
Helena, MT 59620-1001

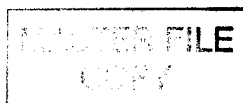
Please submit comments by or before **December 5, 2003**

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Montana Department of
ENVIRONMENTAL QUALITY



Judy Martz, Governor

RECEIVED P. Box 200901 • Helena, MT 59620-0901 • (406) 444-2544 • Website: www.deq.state.mt.us

DEC - 1 2003

November 26, 2003

ENVIRONMENTAL, P.E.

Environmental Services
Montana Department of Transportation
P.O. Box 201001
Helena, MT 59620-1001

Dear Ms. Riley:

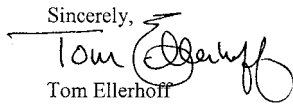
The Department of Environmental Quality (DEQ) reviewed the environmental assessment (EA) by the Montana Department of Transportation (MDT) for the proposed reconstruction of approximately 47.5 kilometers (29.5 miles) of U.S. Highway 87 from Lewistown, MT, to Grass Range, MT, in Fergus County.

After reviewing the EA, the DEQ had the following comments:

- 8 1. Water Quality - An expanded discussion on long term mitigation measures related to water quality and maintenance activities would be appropriate. The current discussion on Pages 28-29 is pretty brief and should describe potential mitigative measures, such as permanent sedimentation basins and enlarged riparian buffer strips that would diminish sediment and other pollutant discharges into adjacent aquatic resources.
- 9 2. Wetlands - The potential wetland mitigation option described on Page 38 involving impounding certain tributaries to Alkali and the North Fork of McDonald Creeks may affect the hydrologic character of the creeks, and could adversely affect them.
- 10 3. There is very little discussion on potential impacts to aquatic resources (streams) other than wetlands. There should be a discussion on mitigation potential for current and future cumulative impacts to these resources. A potential mitigation option to explore would be the removal of some or all of the old railroad grades that may be adversely affecting the adjacent stream's ability to access its floodplain.

Thank you for the opportunity to review the EA. If you have any questions regarding DEQ's comments please contact Jeff Ryan, Water Protection Bureau (444-4626) or me (444-5263).

Sincerely,


Tom Ellerhoff
Administrative Officer

8 - Adverse affects on water quality will be avoided or minimized through compliance with the Erosion Control Plan and MDT's Standard Specifications for water pollution and stream preservation. An Erosion Control Plan incorporating appropriate Best Management Practices (BMPs) will be submitted to EPA as part of the NOI / SWPPP process. Permanent desirable vegetation will be established on all areas disturbed by construction activities.

9 - Based on the majority of the proposed project impacts to wetlands occurring in the Alkali Creek and North Fork McDonald Creek drainages and the extensive amount of wetland habitat associated with these drainages, the best potential opportunity for successful wetland compensatory mitigation would exist in these drainages. This would allow for compensatory mitigation to occur in the same watershed and in close proximity to wetlands that would be impacted by the project and also be of the same wetland types. Presently there is a large impoundment downstream of the confluence of Alkali Creek and North Fork McDonald Creek with a berm that crosses the majority of the floodplain. This large impoundment has caused water to be spread out over the entire floodplain thereby providing more wetland habitat in this area than is found in adjacent areas either upstream or downstream. This type of wetlands development is commonly done by Montana resource agencies in central and eastern Montana.

Additional discussions of wetland mitigation opportunities include restoring wetlands at Wetland 20 where the existing roadway bisects wetlands associated with North Fork McDonald Creek. The proposed roadway alignment in this section (Railroad Grade West of Cheadle Alignment) will be moved to the old railroad grade to the north thus the existing roadway could be obliterated and the area restored to its original elevation thereby restoring wetlands and potentially stream length due to the channelization of the stream in this location. Also at Wetlands 22 associated with Parr Creek the existing bridge could be removed the roadway obliterated and the original ground elevations restored at the bridge crossing and at least one other area further east where the roadway encroaches on the floodplain of Parr Creek. Another opportunity that has been discussed is the removal of portions of the old railroad grade along Alkali Creek and the North Fork McDonald Creek to restore wetlands that were filled in during the construction of the railroad grade. All of the compensatory mitigation scenarios mentioned are potential opportunities that will need to be further assessed by MDT to determine feasibility.

- 10 - Many of the streams in the proposed project area were determined to be wetland and are discussed in greater detail in the technical reports prepared for this project. The removal of portions of the old railroad grade that crosses and encroaches on the floodplain of Alkali Creek and North Fork McDonald Creek could provide opportunities to restore both wetlands and stream habitats.

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DEC 08 2003

MONTANA DEPT. OF TRANSPORTATION
BILLINGS DISTRICT
BILLINGS MONTANA

475 Shooting Star Ridge
Lewistown, MT 59457
December 3, 2003

Bruce Barrett, MDT, District Administrator
424 Morey
PO Box 20437
Billings, Montana 59104-0437


Subject: Lewistown To Grass Range Environmental Corridor Study

Dear Mr. Barrett,

Thank you for returning our phone call, about the Corridor Study meeting, on Monday December 1, 2003. As a result of your information we borrowed the subject booklet from the Fergus County Commissioners office and found much of the content very interesting.

- 11 I understand this is not a definitive document for the whole construction project, only a study, however under the "Impacts" paragraph on page 23 it states farmland includes all areas in non-urban use. For the record I would like to make clear our parcel west of Cheadle has two building sites, a water well and is classified as Tract Land.

Sincerely,


Benjamin M. Tuss

- 11 – To clarify, the farmlands designated for protection under the Farmland Protection Policy Act are those of certain soil types and hydrology capable of forage production, regardless of their actual current use; however, the Act excludes urban built-up areas, which are typically considered those areas within a defined city limit. The area west of Cheadle does have pockets of Statewide Important, Prime, and Prime if Irrigated farmlands; however, the location and extent of the impacts to these lands from this project does not rise to the level that would cause a shift in the proposed alignment. Please feel free to contact MDT if you have specific concerns regarding these proposed impacts.

Lewistown to Grass Range

Environmental Corridor Study

Public Hearing(s):

- ☐ Lewistown: Monday - November 24, 2003
- ☐ Grass Range: Tuesday - November 25, 2003

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We Invite Your Comments:

- 12 The main comments that I have concerning the highway from Lewistown to Grass Range: I think the highway should be left as it is. You are still going to have just as many accidents as you have already. Reason for this is because the are more idiots out on the road all the time. Also, we the farmer and rancher need our land to make a living on. So, I say stay in your
- 13 existing boundaries. At the meetings that we have been to, we can never get straight answers, they just beat around the bush all the time. We get told to do the new road later. They tell us like the Devil Basin road. This does not give us anything to go by. They will not give us any figures to speak of. So we went at our own expense and measured Devils Basin highway in four different locations. 1. By the Winnett turn off, it is 215 ft.

To receive further project information, please provide your name and address:

Name: Daniel Negaard

Address: HC 63 Box 1130
Grass Range, MT 59032

Please leave your comments with either MDT or HKM staff at the meeting, or mail to:

Jean Riley, P.E.
MDT - Environmental
PO Box 201001
Helena, MT 59620-1001

Please submit comments by or before **December 5, 2003**

URS



Montana Dept. of Transportation



- 12 - To be able to make any substantive investment in the continued maintenance and operation of this roadway, it must meet current design and safety standards established by FHWA and MDT. The roadway has been identified for reconstruction based on the anticipated growth in traffic volumes in the future, and fact that many areas along this portion of Highway 87 do not meet current standards. Based on national safety studies, the roadway improvements proposed as part of this project are anticipated to enhance the safety of this portion of Highway 87 for the reasonable driver.
- 13 - We understand your desire to have more detail on right-of-way impacts, but it is impossible to provide any more specific information at this stage. As you found with your personal investigation of the Devil Basin road, the right-of-way line varies, and depends on the profile of the roadway relative to the surrounding landscape and the resulting cut and fill slopes. As the design progresses, more detail will be generated and will be shared with each individual landowner during right-of-way negotiations.

2. By Colony Road turn off 214 ft.
3. By mile marker # 17 - 221 ft.
4. By mile marker # 14 - 327 ft.

The highway is alot wider at other locations

We also checked the highway that was redone in 2002 on Highway 19 between ~~Grass Range~~ and Doneiman corner.

We measured two spots on this road also.

1. By the Davis Road Turnoff area 175' wide
2. By milemarker 60 was 158' wide.

These areas measure alot less than the Devils Basin Road.

It seems to me that they are taking far more land than they need.

- 14 The measurements on our right of way in the larger area is only 110 ft. wide from fence to fence.

They want the road to be set by the AASHTO guide lines, which we know nothing about. By some figures out of the Environmental Assessment Book of MDT They want to do a $29\frac{1}{2}$ mile stretch of road. and this figures out by there figures that they want to take 24 acres to the mile which figures out to be 708 acres from one end of the project to the other. which is a lot of land.

If this road is to be done whether the land owner wants it or not, There would be alot of things needed along our property.

- 16 1. We would need a cattle way under

14 - Depending on the topography, the right-of-way line will be established anywhere from one to six meters from the new toe of slope. The right-of-way will not precisely follow the toe, but will be established along straight lines to provide a suitable average distance from the toe of slope.

15 - The EA estimated that approximately 560 acres of land would be required for the Preferred Alignment. This includes minor right-of-way acquisition along the existing alignment, as well as completely new right-of-way along portions of the route that would be on a new alignment.

16 - Any existing stock passes will be perpetuated, and new stock passes can be requested during final design and right-of-way negotiations.

- the highway.
- 17) 2. We will need a 4' pipe put in down under the frost line. This would be to run an water and electric line to the other side of our property to get water to livestock. Or whatever else we need to run under the highway.
- 18) 3. We also have our irrigation water line under the highway which will take a lot of changing if you widen the road.
4. Also, where the bridge is, is a Big Concern. This is the bridge across South Fork McDonald Creek. How Much More Land Do They Want Here?
- 20) They keep saying that they are concerned with the accidents at the Grass Range Intersection. The only way to get rid of these is by moving the highway to the railroad grade and going all the way to highway 19 on the grade. This way people would have to stop, turn and go a ways to turn again. This would eliminate people running straight through the light.
- This is what we were trying to tell you at the beginning and this wasn't even drawn on your map!
- Why have meetings if you are going to do it your way and not listen to the people?
- So to make it clear leave it the way it is!

- 17 – The comment requests a 4' pipe, but we assume the request is actually for a 4" pipe. A four inch conduit for private use under the roadway can be accommodated and can be requested during right-of-way negotiations.
- 18 – Any impacted irrigation systems will be replaced.
- 19 – The bridge over McDonald Creek will be replaced at or very near its current location, and will be sized to adequately pass a major storm event to prevent or minimize damage to adjacent properties. While some new right-of-way may be required at this location, it is not anticipated that this bridge reconstruction would require substantive amounts of new right-of-way.
- 20 – Several different options were considered for this intersection; however, a review of the accident trends at this intersection do not indicate the need for any dramatic changes in design. The purpose of our public involvement activities is to understand community concerns, gain insight from those who use the facility frequently, and solicit ideas for the development of alternatives to be analyzed. Public input is one of many important tools used in the project development process. This input is used in conjunction with the assessment of social, economic, and environmental impacts; cost effectiveness; application of design standards; and professional engineering judgment to generate and refine design alternatives. In the end, it is imperative that the final design strike a reasonable balance between strict engineering standards and the broad concerns of the public users. Your input is important in this process.

**DNRC Water Resources Division
Lewistown Regional Office**

Jean A Riley, P.E.
Environmental Services
MDT
PO Box 201001
Helena MT 59620-1001

RE: Lewistown to Grass Range – Environmental Corridor Study Environmental Assessment
(EA) Comments

Dear Ms. Riley:

The Lewistown to Grass Range – Environmental Corridor Study Environmental Assessment was incorrectly sent to the Dept. of Natural Resources and Conservation Billings Regional Office and was not forwarded to the Lewistown Regional Office until December 5. It is my understanding that the comment deadline has been extended until December 26, 2003.

- 21 The EA on page 38 in the section addressing the mitigation of wetlands identifies opportunities to create, restore, or enhance wetlands. These opportunities are identified in the Alkali Creek and North Fork McDonald Creek drainage basins. The McDonald Creek basin of which Alkali Creek and North Fork McDonald Creek are included has experienced severe water shortages for the past several years. The EA makes no analysis of the impacts of these mitigation efforts on existing water uses and the associated water rights. Without such analysis it is impossible to conclude that responsible wetland mitigation opportunities really do exist.
- 22 In the same section the EA also states that MDT and the contractor will comply with 124 Spa, 318, and 404 permitting requirements. However, it fails to address the water right implications of the wetland mitigation opportunities.
- 23 While not clear, it seems that additional right-of-way may be needed in areas where the highway passes through or along irrigated fields. It is my understanding that the water rights appurtenant to this land are typically withheld. However, it is not clear if the landowners are informed that the subsequent non-use of that portion or the water right could ultimately result in the abandonment of that portion of the water right.
- 24 One final comment with regard to water rights; it is apparent that water will be needed in the construction process yet the impacts of this water use are not even mentioned let alone adequately addressed. While I recognized that the volume of water is relatively small, we continually received complaints regarding road contractors illegally diverting water. Even a small diversion in a water-short area can impact livestock and irrigation water availability. While short-term in nature, these potential impacts should be addressed.

Sincerely,

Andy Brummond, Water Resources Specialist
MT DNRC Lewistown Water Resources Regional Office

- 21 - Based on the majority of the proposed project impacts to wetlands occurring in the Alkali Creek and North Fork McDonald Creek drainages and the extensive amount of wetland habitat associated with these drainages, the best potential opportunity for successful wetland compensatory mitigation would exist in these drainages. This would allow for compensatory mitigation to occur in the same watershed and in close proximity to wetlands that would be impacted by the project and also be of the same wetland types. Other potential wetland compensatory mitigation opportunities are discussed above under #9. Ultimately, MDT will be responsible for determining water rights, existing water uses, and analyzing potential impacts of compensatory wetland mitigation on existing water resources.
- 22 - MDT will be responsible for determining water rights, existing water uses, and analyzing potential impacts of compensatory wetland mitigation on existing water resources.
- 23 - The property owner will retain water rights for partial parcel acquisition; MDT does not normally acquire water rights for highway purposes. MDT will only negotiate for water rights when the entire parcel is being acquired or when the point of diversion is relocated.
- 24 - The roadway contractors are required to observe all local, state, and federal laws as specified in MDT's Standard Specification that are part of every roadway construction contract. It is the Contractor's responsibility to obtain the proper permission for water used during construction.